

REMARKS

With careful attention to the Examiner's remarks of September 9, 1991, the Specification and Claims 5-7, 16 and 17 have been amended to address each of the objections under §112 made by Examiner on page 2 of the Official Action. Accordingly, these claims as amended are submitted to be definite and to particularly point out and distinctly claim the subject matter which Applicant regards as the invention, and thus are deemed to be patentable over §112.

Also, page 2 of the Specification has been amended to make it clear that the listed brand names of clumping litter are trademarks registered to the companies named. The specification has been amended, beginning on page 4, to add a consistency description for each of the new claims 18, 19 and 20. No new matter has been added.

Corrected formal drawings will be submitted when the application is allowed.

Claims 1, 13, and 14 have been cancelled and new independent Claims 18, 19 and 20 have been added. Claim 18 incorporates the subject matter of the cancelled base Claim 1, reworded for clarity, and is additionally directed to the seamed envelope embodiment of the new litter box liner (Fig. 1), previously featured in Claim 8. New Claim 19 incorporates the features of the original, now cancelled, base Claim 1 and is

further directed to the pocketed embodiment illustrated in Fig.

4. New Claim 20 features subject liner as being of unitary construction and having non-closeable perforations.

All remaining claims which previously depended from Claim 1 have been amended to depend from independent Claim 2, which as amended features the new litter box liner specifically for use with the described clumping litter. So amended, it is submitted that all claims remaining on the application, including new Claims 18, 19 and 20, define patentably over the prior art of record, as further discussed hereafter.

More specifically, in regard to the rejections under §102 and 103 upon the cited reference, Rigney et al, it is submitted that such patent is improperly cited as anticipating or making obvious any of the structure now claimed. The patent to Rigney et al is directed to the combination of litter box liner 12 which is an unperforated sheet of plastic or wax paper, and a series of screens 32 stacked within liner 12. Those screens 32 have a number of holes which are closeable, for example, by integrally hinged tabs, flaps 40 (Fig. 4) or plugs 18 (Fig. 5).

Rigney et al place great emphasis on the presence of such flaps and plugs. The importance is stressed of preventing loose litter from seeping from holes 25 while the screen is still positioned within the liner within the pan. In fact, care is even taken to specify that "The sifting of the litter is facilitated by orienting the hinges connecting the flaps to the screen so that they face the center of the screen." (Column 1,

lines 66-68). Alternatively, instead of the flaps, plugs made of material such as rubber are bonded to one side of the liner and perform the function of plugging the holes in the screen. It is emphasized that "When constructed of soft materials, the discs further exert a greater retaining force and prevent an accidental disengagement of the screen from the liner." (column 2, lines 16-19). Conversely, here, the new liner is unitary, of one element requiring no coaction with any screen or other element.

By contrast, the construction of the present litter box liner is entirely different, being of a unitary construction, i.e. only a liner, and provided with unblocked (non-closeable) holes inward of edges of the liner for free passage therethrough of dry unsoiled litter. No necessity is experienced for plugging or blocking holes 16 in the present liner because when used as described and claimed, with litter which clumps upon exposure to moisture, all that remains to pass through the holes is clean, dry litter. So, with the described and claimed construction of the present one-piece liner there is no need for a separate liner and cooperating screen as in Rigney et al.

Moreover, the patent to Rigney et al issued in 1974. At that time there was no such product as clumping litter commercially available; so, there could not have been any consideration of retaining urine contaminated litter within the screen of that patent for removal from the box and reduction of associated ammonia odor. Rather, Rigney et al specifically

mentioned "various kinds of granular materials such as sand, cat litter and the like." for use in filling litter boxes. Sand (and any other cat litter available in 1974) does not form firm clumps when wet. Any loose aggregates of wet sand would easily disintegrate and fall through the one-half inch holes of the Rigney et al screen when it is lifted from the associated liner.

There is no disclosure whatever in Rigney et al of an uniquely constructed perforated liner for use with a litter substance which clumps upon exposure to urine and which would thus be retained within a litter box liner provided with central non-closeable perforations and constructed as described and claimed in the present application. To the contrary, in Rigney et al, the focus is upon keeping the holes in the screens associated with an interconnected liner tightly closed until time for removal of feces from the box. At that time, a perforated screen is lifted and shaken to allow all the litter (urine soaked or otherwise) to pass through, back onto the separate, unperforated liner. In fact, at column 3, lines 20-23, the problem of the material of the screen and/or liner becoming soggy from urine is discussed as the reason for using wax paper or plastic.

Thus, the reference teaches away from the present invention. With the present litter box liner in use with clumping litter, there is little concern with sogginess as all liquid will immediately solidify the clumping clay of the litter upon contact therewith and thus will not sift through the

non-closeable perforations and so will not remain in destructive contact with the next liner.

For all the above reasons, it is submitted that the patent to Rigney et al neither teaches nor suggests an unitary animal litter box liner designed specifically for use with finely ground litter which forms clumps upon exposure to moisture and is formed of flexible sheet-like material having a plurality of spaced-apart, non-closeable through-holes to provide a means for sifting dry litter from the liner into the litter box while simultaneously retaining clumps of urine-soiled litter within the liner when it is lifted from the litter box, as claimed. Nor does the patent to Rigney et al suggest either the seamed or pocketed embodiments as described and featured in the claims and further discussed hereafter. Thus, it is submitted that all the claims presently in the application as amended are patentable over Rigney et al.

Moreover, because the Examiner did not make any specific statements as to why original Claims 8, 14 and 15 are not patentable over Rigney et al, it is assumed that those claims (and thus new Claims 18 and 19) contain patentable subject matter. And, specifically in regard to Claim 8 which features the convenient, easy to handle, seamed envelope version of the present invention, Applicant notes that the Examiner is indeed correct that the screen of Rigney et al is seamless. Accordingly, the envelope liner variation featured in Claim 8 is deemed to be patentably non-obvious over Rigney et al.

Further, the pocketed version, which is provided for the particularly fastidious pet owner, and featured in Claim 15, is neither taught nor suggested by Rigney et al, which screen is entirely without pockets, and thus Claim 15 is also submitted to define patentably thereover. Likewise, for all the above reasons, new Claims 18 and 19 which include the features of Claims 8 and 15 (as well as all the features of the original base claim) are also considered to be patentable over Rigney et al under §103 and §102(b) of the Patent Statute.

Applicants submit that there is a crying need in the marketplace for the new liner which is adapted specifically for use with the wide range of clumping litters currently available and popular among small pet owners. The convenience and other described advantages offered to consumers by Applicants' liners have not previously been known.

In regard to the art of record not relied upon, Applicant submits that the cited references enclosed by the Examiner in addition to Rigney et al neither teach nor suggest the specific combination of features as described and claimed in the present application. Indeed, the construction and objects of all such patents are entirely different from those of the present application.

In view of the foregoing, it is submitted that the claims define patentably over the prior art and that the specification and claims comply in all respects with the requirements.

Accordingly, withdrawal of the rejections and a notice of allowance are solicited.

If Examiner intends to take any action other than allowance, or if any issue could be readily resolved or other action could be taken to advance this application, such as Examiner's amendment, it is requested that Examiner please telephone the undersigned.

Respectfully submitted,

Date: December 5, 1991
KALISH & GILSTER
818 Olive Street - Suite 1600
St. Louis, Missouri 63101
(314) 436-1331

Rebecca J. Brandau
Rebecca J. Brandau
Registration No. 33,654
Attorney for Applicant(s)

nw
schuamd.doc